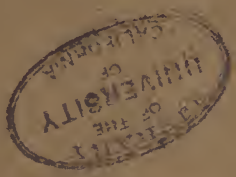
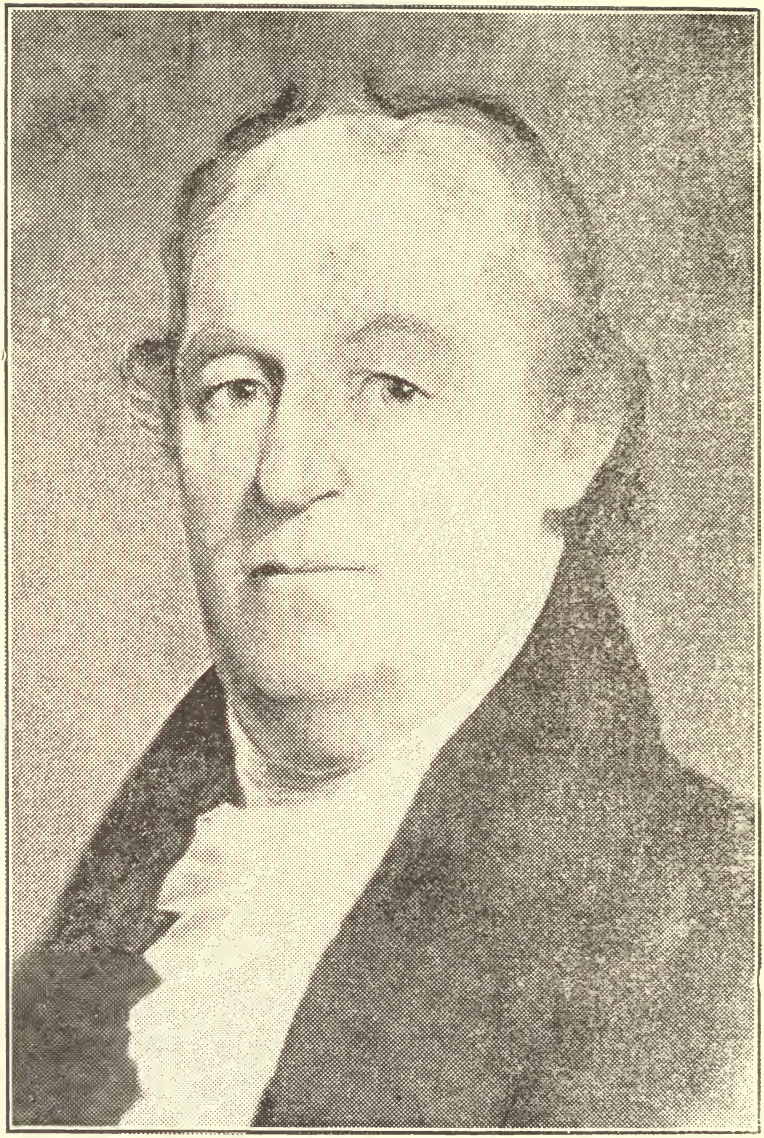
SENATOR JAMES ROSS

A SKETCH BY MR. JAMES I. BROWNSON





Senator James Ross

THE LIFE AND TIMES

OF

Senator James Ross

A SKETCH BY JAMES I. BROWNSON, ESQ.

Read before the

Washington County Historical Society

February 21, 1910

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[Mr. James Irwin Brownson, a member of the Washington County Historical Society, was born at Washington, Pa., on January 25,, 1856, of Rev. Dr. James I. and Eleanor M. (Acheson) Brownson; graduated from Washington and Jefferson College in 1875; studed law with Mr. Alexander Wilson and was admitted to the Washington County Bar in 1878.]

Introduction by the President

Ladies and Gentlemen:

The meeting this evening of the Washington County Historical society, organized on January 1, 1901, is for the ninth anniversary of its first public meeting, held on February 22, 1901, the birthday of George Washington, the first president of the United States, a day to which we always do honor.

Our exercise tonight will be the reading by one of our members of a sketch of the Life and Times of Senator James Ross, one of the earliest members of the Washington County Bar, and in his matured years one of the leading statesmen of our State and Nation. His history is almost wholly unknown to the men of this generation, no detailed biography of him having ever been published, and it surely is well that our society should make a record of the personality and work of one who was a citizen of our town in the earliest days of its life.

On this occasion we will also make a record of the fact that a short time ago, our society, through the kindness of Mrs. Margaret Stockton McKennan, the widow of the late Dr. Thomas McKennan (whom many of us knew so favorably and well) and of her family, became the owner of the fine original oil-painting of James Ross, now before this audience. This accession to our collections is one of our greatest prizes; and on behalf of our society we hereby return to Mrs. McKennan and her sons and daughters our profound thanks for their gift.

A word, now, as to the painting itself. There is no mark or name discovered upon it, to indicate by whom it was painted, but there is no doubt that it is an original or a replica of a painting of James Ross from life by Thomas Sully, an eminent portrait painter, of Philadelphia, who from his own register of portraits painted by him from 1801 to 1871, painted in all the number of 1931 of eminent persons of his day: See Sully's Register of Portraits, Vol. 32, Penna. Mag. of History, 385; idem, Vol. 33, pp. 22, 147.

This register shows (33 Penn. Mag. of History, p. 171), that in 1812 Mr. Sully painted a "Head" of "James Ross of Pittsburg," and in 1813, a "Half-length of James Ross for the Academy of Fine Arts." Our society has a copy of Goodman & Piggot's steel engraving of the Academy of Fine Arts painting, presented to us by Mr. Joseph L.

Delafield, a lawyer, of 25 Nassau St., N. Y., one of the single living family of the descendants of James Ross. A comparison of the two portraits will clearly show that they are portraits of the same person, but that the portrait before us is an original or a replica of the 1812 painting, and not of the Academy of Fine Arts portrait of 1813.

All that we know certainly of our painting itself, and how it has reached us, is that it was presented to Hon. Thomas McKean Thompson McKennan, who was the personal friend of Mr. Ross, by members of the Washington County Bar, during Mr. McKennan's lifetime. Mr. McKennan was for one month the Secretary of the Interior Department under President Fillmore, and died in 1852, the father of Hon. William McKennan, late the Judge of the U. S. Circuit Court, now deceased, and of Dr. Thomas McKennan, late of East Maiden street, Washington, Pa., also deceased. On the death of his father the painting came to Dr. McKennan, in whose ownership it has remained until donated to our society: See Crumrine's History of Washington County, 252 n. 6, and 485.

Mr. Brownson, who is to read the Sketch of the Life and Times of Senator James Ross, needs no introduction to your acquaintance, and I know he will receive your interested attention.

BIRTH-PLACE OF SENATOR JAMES ROSS

PEACHBOTTOM TOWNSHIP, YORK COUNTY, PA., KINDNESS OF MR. GEO. R. PROWELL

The Life and Times of Senator James Ross

A Sketch by Mr. James I. Brownson

James Ross was a native of York County, Pennsylvania. His grandfather, Hugh Ross, (who was a son of James Ross of Carrick-Fergus, County Antrim, Ireland,) came to America some time previous to the year 1723, with his wife Elizabeth, and settled at Nelson's Ferry, Lancaster County, now McCall's Ferry in York County, in which locality he resided until his death, in February, 1780. Among the children of Hugh Ross was Joseph Ross, born in 1738, who married Jane Graham. Joseph and Jane Graham Ross lived in a stone house that is still standing, in Peachbottom township, York County, about one-fourth of a mile north of the town of Delta, and there on July 12, 1762, was born their son, James Ross, the subject of this sketch.

The education of James Ross, after a preliminary course in a neighboring school, said to have been the famous academy of Robert Smith at Pequea, Lancaster County, was pursued at the College of New Jersey, now known as Princeton University.

After leaving college he came across the mountains to Washington County, and we find him about the year 1782 engaged as a teacher in the log-cabin academy of Dr. John McMillan, near Canonsburg. Dr. McMillan, who was ten years his senior, had come from Fagg's Manor, Chester County, a place distant not more than about 25 miles from the home of Ross's parents, becoming the pastor of the Presbyterian churches of Chartiers and Pigeon Creek in 1776, though deterred by the perilous state of the

western country from bringing his family to reside in his field of labor until 1778. It was doubtless the presence of McMillan here that led young Ross to settle in this region. As to the extent of their previous personal acquaintance we are not informed. At the time when McMillan made his first journey to what is now Washington County, in 1775, Ross was a boy of but thirteen years, and he was only sixteen years of age when the former established his permanent residence here. Whether it was because of personal friendship, or of acquaintance between their families, or merely the circumstance that McMillan had come from his own neighborhood, it is evident that Ross was led hither by the fact that McMillan was already here.

It has been said that Ross in his young manhood saw military service for a time in the war of the Revolution, and it has also been asserted that after coming west he went out with Col. Crawford's ill-fated Sandusky expedition in May, 1782. Whatever basis there may be for either of these statements, certain it is that he was engaged for some time in the peaceful pursuit of a teacher under Dr. McMillan. Tradition tells that he at first intended to make the ministry his permanent calling. While occupied as a teacher his attention was directed toward the study of the law by Hugh Henry Brackenridge, then a lawyer living at Pittsburgh, whose practice took him over the greater part of Western Pennsylvania, and who afterwards became a Justice of the Supreme Court of Pennsylvania. Brackenridge encouraged and assisted him by the loan of books to undertake a course of study in preparation for the bar. To complete this preparation Ross went to Philadelphia. On his return he was admitted to the bar of Washington County. No record of his admission has been found, and its exact date is unknown. The best evidence on the subject indicates that it was some time in the year 1784. He became a resident of Washington, and

lived and maintained a law office here until the latter part of 1794 or early in 1795, when he removed to Pittsburgh. He quickly took rank as a lawyer and came into full practice. He became widely known, and his practice extended over a number of counties. He was admitted to the bar of Fayette County in December, 1784, to that of Westmoreland County in 1785, and, after the erection of Allegheny County by the act of September 24, 1788, he was admitted in that county on the 16th of the following December.

The late Chief Justice Agnew, who was acquainted with Senator Ross from about 1820 to the time of his death, said of him: "Nature gave Senator Ross a fine personal presence and a sonorous voice, which, with a thoroughly disciplined mind, made him a leader of the bar for many years".

Judge Agnew also spoke particularly of the great ability displayed by Ross in land cases, which in the early days constituted the most important branch of litigation. Now, the titles to land have been so well settled that it is a comparatively rare thing, in Washington County or in Allegheny County, to have an action of ejectment turn on questions connected with warrants, original surveys or patents; but in the days when James Ross began to practice law a very large proportion of the cases tried, and most of the cases of importance, were of this character, and it was in such cases that the greatest demands were made upon the intellectual and legal abilities of the trial lawyer.

One case of another type, in which Mr. Ross defended his old friend, Dr. McMillan, deserves special mention on account of its local and general interest, as well as on account of its being a leading authority in support of a proposition of law which Mr. Ross successfully maintained.

The Rev. Thomas Ledlie Birch, a minister of the Presbyterian Church of Ireland, having come to this country

and having preached for the First Presbyterian Church of Washington for a time, the congregation desired to have him settled as its pastor. With this in view he applied to the presbytery in 1800, and again in 1801, for admission to its membership. The presbytery, however, having examined Mr. Birch upon the subject of "experimental religion", and not being satisfied with the results of the examination, refused to receive him as a member, or to permit his settlement as pastor of the Washington church. Dr. McMillan seems to have taken a leading part in the presbytery, and to have expressed his opinion of the ministerial character of Mr. Birch in somewhat forcible language. Subsequently Mr. Birch preferred charges before the presbytery against Dr. McMillan of unministerial and unchristian conduct in falsely aspersing the complainant's character. In defending himself before the presbytery McMillan sought to justify his having said certain things which he admitted having spoken of Birch, and in presenting such a defense he necessarily had to repeat certain of his former statements. The presbytery, acquitting McMillan in every other respect, condemned him for having made use of one expression, viz. that Mr. Birch was "a preacher of the devil", and for this pronounced upon him an ecclesiastical censure, to which he submitted. In 1802 Birch brought an action for slander against McMillan in the Court of Common Pleas of Washington County, which was transferred to the Circuit Court of the same county, and is therein docketed at No. 8 September term, 1803. The declaration in the case charged the defendant McMillan with having slandered the plaintiff at the hearing before the presbytery, the particular words charged to have been there spoken being that he had called the plaintiff "a liar, a drunkard and a preacher of the devil."

One of the points made by Mr. Ross in his defense of McMillan was that what was said by the defendant in the course of the trial before the presbytery was, in legal par-

lance, a "privileged communication"; that is to say, the plaintiff having called the defendant before an ecclesiastical tribunal, the jurisdiction of which they both acknowledged, the defendant had the right and privilege of speaking freely in his defense, and, so long as he did not travel out of the case to slander the plaintiff, the words spoken by him in the course of his endeavor to exculpate himself were not actionable. It had previously been well settled that in a court of justice a charge or recrimination, made by a defendant, that is pertinent to the matter in question in the case, cannot be made the subject of an action for slander, the reason for this being that it is essential to the proper administration of justice that every defendant have freedom of speech in his own defense; and the contention of Mr. Ross was that the same rule should be applied to a proceeding before a presbytery, notwithstanding the fact that this was not a court of law but a private tribunal acting by the consent of those who submitted themselves to it. The applicability of such a rule to trials in denominational tribunals was a new point, and the trial court ruled against the contention of Mr. Ross, but the Supreme Court, in an opinion by Chief Justice Tilghman, sustained the point he made and reversed the judgment rendered against Dr. McMillan: 1 Binney's Reports page 178. A new trial having been awarded, the case was finally settled in 1808, in pursuance of a suggestion made by the court, the entry showing this, dated September 27, reading as follows: "Discontinued by Plff. on the Defendant's paying all the docket costs, and the Plff. receiving Three hundred dollars in full of his Bill, and the attendance of his witnesses, and of all demands—under the recommendation of the court, per writing filed with papers." The sum named, $300, was the amount of the verdict which the Supreme Court set aside. I shall mention this case again, later on, in connection with the political history of Mr. Ross.

The activities of Mr. Ross covered the whole field of legal practice. He was eloquent before a jury, whether in a civil or a criminal trial. He was forcible in arguing a question of law before a bench of judges. He was noted also as a business lawyer, and in this capacity he had the management of very extensive property interests, in the care of which he not only exhibited the highest degree of professional and business skill, and the utmost fidelity, but also in many instances exercised great kindness in rendering to clients assistance to carry them through financial straits. I am told that by his skilful management and assistance the great Denny and Schenley estates were saved from practical bankruptcy when they were "land-poor." Among the clients that he served in the management of business affairs was George Washington. The latter owned a large amount of land in Western Pennsylvania, and Mr. Ross represented him in connection with the sale of this land. An incident that occurred on the occasion of a visit he made to Philadelphia in August, 1795, to confer with Washington regarding this business, is interesting as throwing a strong light upon a side of Washington's character which his biographers and panegyrists have largely ignored, viz. that, although usually able to keep his feelings under strict control, he was not altogether superior to the ordinary passions of humanity. At that time the treaty with England negotiated by Jay, which proved to be very unpopular, was the subject of much discussion in the country, and Washington had been assailed with much violent and vulgar abuse. His Secretary of State, Edmund Randolph, had just published a pamphlet regarding the treaty, by which the President was incensed to an extraordinary degree. The incident referred to is thus narrated in the Philadelphia Press of August 4, 1876, quoting from a note book of the late Horace Binney Wallace:

"He [Ross] came to Philadelphia to settle his account,

and sending word to the President that he would wait upon him at his pleasure, was invited to breakfast the next morning. On arriving he found all the ladies—the Curtises, Lewises, Mrs. Washington, and others—in the parlor, obviously in great alarm. Mr. Ross described them as gathered together in the middle of the room, like a flock of partridges in a field when a hawk is in the neighborhood. Very soon the President entered and shook hands with Mr. Ross, but he looked dark and lowering. They went into breakfast, and after a little while the Secretary of War came in and said to Washington: 'Have you seen Mr. Randolph's pamphlet?' 'I have,' said Washington, 'and by the eternal God, he is the damnedest liar on the face of the earth!' and as he spoke he brought his fist down upon the table with all his strength and with a violence which made the cups and plates start from their places. Ross said he felt infinitely relieved; for he had feared that something in his own conduct had occasioned the blackness of the President's countenance. The late Chief Justice Gibson had this from Ross himself, and he mentioned it at the house of the late Mr. John W. Wallace, of Philadelphia, as showing that, naturally, Washington was a man of extraordinary passions and sensibilities."

In 1789, five years after his admission to the bar, and when he was only twenty-seven years of age, Mr. Ross was elected a member of the convention that framed the Pennsylvania constitution of 1790, which stood until remodeled by the constitutional convention of 1837-8. In the convention he showed himself to be in advance of the age—at least for Pennsylvania—in his conception of religious liberty. The constitution of the United States had already provided that "no religious test shall ever be required as a qualification to any office or public trust under the United States." Mr. Ross believed that it was improper for the constitution of the State to prescribe religious tests, and that it ought to place the subject upon the same footing as the constitution of the United States. Accordingly, when section IV of article IX of the proposed constitution was

under consideration, reading as follows: "No person who acknowledges the being of a God and a future state of rewards and punishments, shall, on account of his religious sentiments be disqualified to hold any office or place of trust or profit under this commonwealth", he supported and voted for a motion, made by another member, to strike out the words "who acknowledges the being of a God and a future state of rewards and punishments", the effect of which would have been to make the section provide simply that no person should be disqualified on account of his religious opinions, etc., thus bringing the state constitution into exact agreement on this subject with that of the nation. The motion did not prevail, but 13 members of the convention voting in its favor and 47 against it, and the section as originally proposed became a part of the constitution. The same provision, in almost the same words, forms a part of our present state constitution.

For his vote on this subject Ross was furiously assailed later, when a candidate for Governor. It was charged that the animating motive of the vote was to be found in hostility to religion and the holding of atheistical sentiments. Of course we expect that in the heat of a partisan struggle for office a man's political opponents will paint his actions in the darkest colors and misrepresent his motives; and yet such an attack as was made upon Ross in this instance indicates that the general public was lacking in clarity of mental vision. Very likely it was true that Ross had abandoned the orthodox theological views which he entertained at the time when he thought of entering the ministry, though we have the testimony of Dr. McMillan (which will be referred to further on in this paper) that he never manifested disrespect for religion; but that hostility to the introduction into a constitution of a provision that would impose, or permit the imposition, of religious tests in civil government, and hostility to religion itself, are not at all the same thing, and that the former may be entertain-

ed by one who is earnestly religious, is an idea which, in the past, minds not accustomed to clear thinking seem to have had difficulty in grasping. In the year of grace 1910, when Pennsylvania has recently abolished all religious tests for witnesses, the reasonableness of abolishing all such tests for office-holders will probably be obvious to most religious men. But so slow has been the development of a clear conception of religious liberty, and of the proper relations between religion and civil government, that there are people, even yet, who cannot understand how a man can be sincere, while objecting to the enactment, by constitution or statute, of religious tests of any kind or to any extent, in at the same time professing to be a devout worshiper of Almighty God.

In 1794 occurred the disturbance generally known as the Whiskey Insurrection. Of this incident in our history we people of Southwestern Pennsylvania are not proud, but there is much to be said in extenuation of the conduct of the great mass of the people concerned in that affair. One who is conversant with the conditions which gave rise to that movement, will view the lawlessness that was exhibited with a degree of leniency surprising to persons less familiar with its causes. The western counties were thinly populated, and practically without manufactures. They were separated from the markets of the east by the Appalachian mountains, across which it was an extremely difficult and costly operation to transport their products, upon the inferior roads that must be traversed, while their other natural outlet—by way of the Ohio and Mississippi rivers—was obstructed by reason of the fact that Spain held the right bank, and the mouth, of the Mississippi, and the federal government had not yet secured by treaty the free navigation of that river. The result was that the people of this region felt compelled to turn to the distilling of whiskey as a means of converting their grain into a pro-

duct which not only had a greater value in the market, but by reason of its lessened bulk was much more easily transportable. Accordingly stills were set up all over the country, and almost every farmer was engaged in the business of distillation. When congress imposed an excise tax on whiskey as a revenue measure, they believed that they were going to be ruined by it; whiskey was the one product available to them as the means of carrying on trade with the east, and on this they were to be compelled to pay a ruinous tax before they could market it. This view, in connection with their opinion that the government had been neglectful of their interests in failing to provide for them proper outlets to market, led them to regard the excise law as an unjust oppression of the west, and this feeling was intensified by the traditional hatred of excisemen which they had inherited from their ancestors in Scotland and Ireland. Moreover, it was only eighteen years since the Declaration of Independence, the principal inciting cause of which was a determination not to submit to what was regarded as unjust taxation imposed upon the colonists by England; and the people had fresh in their recollection the honor and praise that had been generally accorded to the men of Boston who by the exercise of force had frustrated the English scheme for the collection of the tax on tea. It is not strange that the common people were unable to perceive the distinction between the two cases—that the resistance to England's attempt to tax the colonies was grounded on the explicitly asserted principle that those taxes were unconstitutional, whereas the congress of the United States had an indisputable constitutional right to impose an excise tax. It is not surprising that they should resort, misled as they were to a considerable extent by unscrupulous demagogues, and should regard themselves as justified in resorting, to acts of violence, by way of resisting the enforcement of what they viewed as an odious, discriminating and unjust law.

James Ross, with other leading men, seeing clearly the dangers into which the people were running, endeavored to moderate and restrain the popular fury. In this endeavor he attended several of the meetings that were held, with the purpose of exercising his influence in favor of law and order. He went, for example, to the meeting of August 1st at Braddock's Field. Armed companies of militia asembled there in large numbers, and it was originally designed to have them attack and take the United States garrison at Pittsburgh, though after discussion this project was abandoned. The part taken by Mr. Ross on this occasion is indicated by the remark of Daniel Hamilton, reported by H. H. Brackenridge in his "Incidents of the Western Insurrection", viz.: "What do you think of that damned fellow James Ross? He has been here and all through the camp, persuading the people not to go to Pittsburgh."

The resistance to the execution of the nation's laws imbued the administration with the feeling that the sovereignty of the republic was at stake—that at all hazards the supremacy of federal law must be maintained, and that the opportunity must be taken of demonstrating to the world that the government which the constitution had erected was strong enough to maintain itself against sectional attacks. Accordingly measures were taken to organize an army for the suppression of this outbreak. But before starting the army on its march across the mountains, the President, at the suggestion of Chief Justice McKean, in August, 1794, appointed three commissioners to offer, in the name of the United States, amnesty to those who had been resisting the government, on condition of their giving satisfactory assurances of their submission to the laws of the nation. He named as these commissioners James Ross, who had earlier in the year become a Senator of the United States; Jasper Yeates, a Justice of the Supreme Court of Pennsylvania, and William Bradford, At-

torney General of the United States. At the same time two commissioners representing the State of Pennsylvania were appointed by the Governor to accompany the federal commissioners. The State commissioners were Thomas McKean, the Chief Justice, and William Irvine, a representative in Congress from Pennsylvania.

Mr. Ross was at that time a resident of Washington County, and this county was the very hot-bed of the Insurrection. His selection to serve as one of the commissioners is a striking evidence not only of the prominence he had attained, but also of the confidence reposed in him by the federal executive. He discharged his duties as commissioner in such a manner as to show that this confidence was merited.

The commissioners assembled at Pittsburgh, and there met a committee, known as the "Committee of Conference", appointed to treat with them on behalf of the persons implicated in the disturbances. After oral conferences the commissioners and the committee exchanged communications in writing. In a note dated at Pittsburgh, August 22, 1794, and signed by James Ross, J. Yeates and Wm. Bradford, the terms offered by the commissioners were stated as follows:

"1. It is expected, and required by the said commissioners, that the citizens composing the said general committee, do, on or before the 1st day of September, explicitly declare their determination to submit to the laws of the United States, and [that] they will not directly or indirectly oppose the acts for raising a revenue on distilled spirits and stills.

"2. That they do explicitly recommend a perfect and entire acquiescence under the execution of said acts.

"3. That they do in like manner recommend that no violence, injuries or threats be offered to the person or property of any officer of the United States, or citizens complying with the laws, and to declare their determination to support (as far as the laws require) the civil au-

thority in affording the protection due to all officers and citizens.

"4. That measures be taken by meetings in election districts, or otherwise, [to declare] the determination of the citizens in the fourth survey of Pennsylvania to submit to the said laws and that satisfactory assurances be given by the said commissioners that the people have so determined to submit, on or before the 14th of September next."

If these conditions should be fully complied with, the commissioners stated that they had power to promise and engage as follows:

"1. No prosecution for any treason, or other indictable offense, against the United States, committed in the fourth survey of Pennsylvania, before this day, shall be proceeded on, or commenced, until the 10th day of July next.

"2. If there shall be a general and sincere acquiescence in the execution of the said laws, until the said 10th day of July next, a general pardon and oblivion of all such offenses shall be granted, excepting therefrom, nevertheless, every person who shall in the meantime willfully obstruct, or attempt to obstruct, the execution of any of the laws of the United States, or be in any wise aiding or abetting therein."

Thirdly, it was stated that, Congress having on the 5th day of June preceding passed an act to authorize state courts to take cognizance of offenses against the excise laws, the President had determined to direct prosecutions thereafter to be brought in the state courts, [so that inhabitants of the western counties should not be carried to Philadelphia to meet charges in the United States court,] if, upon experiment, it should be found, in the President's judgment, that local prejudices or other causes did not obstruct the faithful administration of justice.

The "general committee", mentioned in the note of the federal commissioners, was a standing committee composed of two persons from each township in the territory affected, which had been appointed by a meeting

or convention of delegates held at Parkinson's Ferry, now Monongahela City. This committee met at Brownsville on August 28 and 29. and to it the terms offered by the commissioners were submitted. After considerable discussion it was finally decided to ascertain the sense of the committee, upon the question of accepting the terms offered, by means of a vote taken by secret ballot. The result was 34 yeas, and 23 nays. (Six persons afterwards declared that they had voted in the negative by mistake.) This vote, though exhibiting a lack of unanimity in the committee, is said by H. M. Brackenridge ("Whiskey Insurrection", 1859, page 229,) to have "suddenly changed the face of affairs", showing that the supposed majority in favor of resistance to the government, which the friends of order had been afraid to antagonize, was in reality a minority, and emboldening those who wished for an accommodation on the basis of the terms offered to come out openly in support thereof. It was, however, only what we would now call a "straw vote", and when the committee proceeded to take official action, instead of voting to accept the terms unconditionally, it adopted a resolution declaring merely that "in the opinion of this committee it *is the interest* of the people of the country to accede to the proposals made by the commissioners on the part of the United States", and followed this with the appointment of a new committee of conference for the purpose of endeavoring to obtain some modification of the terms, and then adjourned without day. The view the commissioners took of this was that there had been a failure to comply with the conditions attached to their offer. Accordingly they informed the new committee of conference that they regarded their proposals as terminated. But the result of a joint meeting, held on September 2nd by the federal commissioners, the state commissioners and this committee of conference, was that it was agreed to give the people one more chance; it was arranged that on September 11th the people should

assemble at their voting places and individually sign engagements that they would henceforth submit to the laws of the United States, that they would not directly or indirectly oppose the execution of the excise laws, and that they would support, as far as the law requires, the civil authority in affording the protection due to all officers and other citizens.

For various reasons many were reluctant to sign such an engagement, and the signatures were not sufficiently general to be regarded as satisfactory to the government. The result was that the army, which had been assembled, was started on its westward march. Upon its arrival it met with no military opposition, and the principal service it performed was the arresting and guarding of persons accused of complicity in the violations of law that had occurred during the troubles.

I shall not go into the question whether there existed an actual necessity for bringing the army hither, nor into that of the necessity or propriety of the military inquests which were held after the army came.

Mr. Ross was able, by communicating his personal knowledge of various matters, acquired by means of his residence at Washington during the period of the Insurrection, to relieve or assist in relieving from danger of arrest various persons who were under suspicion of criminal connection therewith, and among these was his friend, Mr. (afterwards Judge) Brackenridge.

As has already been stated, Mr. Ross became a Senator of the United States in the year 1794. The journal of the Senate shows that on April 2, 1794, a certificate of the election of James Ross as a Senator from Pennsylvania was presented to that body, and on the 24th of the same month he took his seat. He succeeded Albert Gallatin, who had entered the Senate in 1793, but later had been compelled to vacate his seat by a decision that he was ineligible by rea-

son of not having been a citizen of the United States for the period of nine years preceding his election. The unexpired term for which Ross was elected ended in 1797, at which time he was re-elected, for the succeeding full term of six years. He thus served continuously as a Senator from 1794 to 1803.

At the time of his entrance into the Senate he was in his thirty-second year. He soon became a prominent figure. It has been stated that on February 20, 1795, (at which time he had been serving for less than a year,) he was elected president pro tempore of the Senate. This may be correct, though I have not been able to verify it. I do find, in the Annals of Congress, that he was elected to that position on March 1, 1799.

Jay's treaty with England, which was transmitted to the Senate by President Washington on June 8, 1795, and the great unpopularity which it encountered, have already been alluded to. In negotiating that treaty Mr. Jay did the best he could, and got all that it was possible to induce the British government to agree to. The concessions which he obtained fell far short of what he had been striving for, and of what it was felt the United States was justly entitled to; but it was a question of agreeing on such a treaty as could be obtained, or else letting the differences between the United States and Great Britain result in a war for which we were unprepared. The signing of that treaty, and its subsequent ratification, were undoubtedly the wise and proper things to do. But it was roundly denounced for two reasons: first, as a truckling to England and a shameful surrender of our rightful claims, the negotiator and the supporters of it being stigmatized as friends of the British rather than of their own countrymen; and, second, as an affront to France, the friend that had aided us in our Revolution. France itself took this latter view. The intensity of feeling that was aroused in this country is indicated by a placard which a gentleman

of Boston placed upon the fence in front of his property, reading: "Damn John Jay! Damn every one that won't damn John Jay! Damn every one that won't put lights in his windows and sit up all night damning John Jay ! ! !" The Federalist party, however, stood by Washington's administration and secured the ratification of the treaty by the Senate. Mr. Ross was a man of strong Federalist principles, and acted with his party in this matter. His own individual views regarding it are indicated by a conversation recorded by Thomas Jefferson as taking place between himself and Judge Brackenridge in the year 1800. Mr. Jefferson states that Judge Brackenridge informed him that after the negotiation of the treaty he was told by Ross that there was a party in the United States who wanted to overturn the government and were in league with France; that France, by a secret article of treaty with Spain, was to have Louisiana, and that Great Britain was likely to be our best friend and dependence; and that, on this information he [Brackenridge] was induced to become an advocate of the British treaty. The point of this was that it made a great difference to the United States who held Louisiana, which then extended along our entire western boundary: Spain, which then held it, was becoming a weak power, and her possession of Louisiana might be viewed with equanimity, whereas if France, a strong power, should come into possession of it, the safety and integrity of the United States would be menaced; hence the wisdom of having Great Britain for our friend. These views respecting the position of the United States as between France and Spain, and with respect to Great Britain, are identical with those which Mr. Jefferson himself afterwards expressed when President. He wrote to Robert R. Livingston, the minister at Paris, as follows:

"The cession of Louisiana and the Floridas by Spain to

France completely reverses all the political relations of the United States, and will form a new epoch in our political course. There is on the globe one single spot the possessor of which is our natural and habitual enemy. It is New Orleans, through which the produce of three-eighths of our territory must pass to market. France, placing herself in that door, assumes to us the attitude of defiance. Spain might have retained it quietly for years. . . . The day that France takes possession of New Orleans . . . seals the union of two nations, who, in conjunction, can maintain exclusive possession of the ocean. From that moment we must marry ourselves to the British fleet and nation."

The storm over the British treaty slowly subsided, and in time the country came to see that the denunciations which had been heaped on the heads of Jay and Washington on account of it were wholly unjust. It was learned that, so far from regarding it as a triumph of British diplomacy, England took exactly the contrary view of it. In 1812,at the breaking out of the war begun in that year,Lord Sheffield remarked: "We have now a complete opportunity of getting rid of that most impolitic treaty of 1794, when Lord Grenville was so perfectly duped by Jay."

France, our original friend and ally, soon became our enemy, and in the following administration, that of John Adams, we had a short naval war with her, brought on by her aggressions. For the purposes of this conflict several war vessels were built in Pittsburgh and floated down the Ohio to the Mississippi. One of these was named "President Adams," and another "Senator Ross."

The troubles with France led to the passage of the alien and sedition acts, which the Federalist party pressed through Congress in 1798, and which proved to be a political blunder, and produced a reaction that contributed largely to the subsequent overthrow of that party.

As the presidential election of 1800 approached, the sub-

ject of the method of electing the President and Vice-President as prescribed in the constitution seems to have begun to arouse discussion. On January 19, 1799, Thomas Jefferson jotted down the fact that W. C. Nicholas had told him that in a conversation with Senator Ross, three or four days previously, regarding the subject of having the states agree to some uniform mode of choosing presidential electors, Ross had said "that he saw no good in any kind of election. Perhaps, said he, the present one may last a while." On its face, this would seem to indicate a deep distrust of popular government, though evidently a very imperfect report of the conversation. But, however lacking in foresight Ross may have been as to the endurance of the general system of elections, he had a clear vision of one of its defects and of the dangers incident thereto, viz. the insufficient provision for the passing upon disputed election returns. He foresaw, and made an effort in the year 1800 to provide for, just such a situation as arose in connection with the election of 1876. On January 23, 1800, he introduced in the Senate a resolution for the appointment of a committee "to consider whether any, and what, provisions ought to be made by law for deciding disputed elections of President and Vice-President of the United States, and for determining the legality or illegality of the votes given for those officers in the different states." On January 24th the resolution was adopted, with an amendment adding "that the committee be authorized to report by bill or otherwise," and Senators Ross, Laurence, Dexter, Pinckney and Livermore were appointed as the committee. On February 14, Mr. Ross for the committee reported a bill prescribing a mode of deciding disputed elections of President and Vice-President. It provided that each house of Congress should choose by ballot six of its own members, who together with the Chief Justice (or in case of his disability the next senior Justice of the Supreme Court) should

form a tribunal, known as the "grand committee," with power "to examine, and finally to decide, all disputes relating to the election," reporting their decision to the houses. A number of amendments were offered, some of which were adopted, and the bill was passed by the Senate substantially as offered, except that, instead of the Chief Justice (or a Justice) of the Supreme Court, the thirteenth member of the grand committee was to be a Senator chosen by the House of Representatives out of a list of three submitted to the House by the Senate. When the bill went to the House, a select committee of which John Marshall was chairman, redrafted it, making essential changes in the method of dealing with disputes relative to the electoral vote, and this new draft passed the House. It was then accepted by the Senate except in one particular, the Senate making an amendment to which the House would not agree, and the disagreement between the two houses resulted in the failure of the bill.

As will be noticed, the bill creating an electoral commission to pass upon the election of 1876, followed in a general way Ross's idea of constituting a tribunal composed of members taken partly from the House of Representatives, partly from the Senate, and partly from the Supreme Court.

The election of 1800 resulted in the turning out of the Federalist party from the control of the government Thomas Jefferson was chosen President. By the Federalists the accession of the party of Jefferson to power was viewed with profound misgivings. They entertained sincere, though as events proved mistaken, forebodings as to the future of the republic, believing that the country was about to be ruined by the substitution of radical demagogism for wise and conservative statesmanship. In an effort to make sure that at least the judiciary should be secured for Federalist principles, they passed, by a

strict party vote, within three weeks of the commencement of Mr. Jefferson's term, an act considerably enlarging the number of federal judges and to some extent remodeling the federal courts, and the new judgeships thus created were filled with Federalists by appointments made before Jefferson's inauguration. This expansion of the judiciary did not meet with popular approval. It was alleged to have gone far beyond the needs of the country, though, in the light of experience, the objections made to it on this score do not seem to be very weighty. If it did to some extent exceed the existing needs, it was, in so far, but a provision for the expansion of business which the rapid growth of the country was steadily bringing about. It is probable that the act would not have been seriously objected to, had not the whole scheme been viewed as a device to forestall the new administration and entrench the Federalists in the judicial department of the government. But, viewing the matter as they did, the Jeffersonian party determined to get rid of the new judges. At the first session of Congress held during Jefferson's administration a resolution was introduced declaring that the act creating the new judgeships ought to be repealed. After an extended debate the resolution was passed and a committee appointed to report a bill for that purpose. When the bill had been introduced, and came up for consideration, the debate was renewed. It was occupied principally with the constitutionality of the proposed act. Mr. Ross made a forcible speech, maintaining that for Congress to pass a law that would put the recently appointed judges out of office would be to violate the constitutional provisions that gave all judges a tenure during good behavior, and made them irremovable except by impeachment for misbehavior. It would be constitutionally proper, he said, to pass a bill providing that as vacancies occurred in the judgeships no new appointments should be made to fill such vacancies, and the offices so becoming va-

cant should thereupon be abolished; but to abolish a judgeship during the incumbency of the judge filling it was in the face of the intention, manifested by the constitution, that the judiciary should be independent of Congress. If the judgeships in question could be abolished by Congress, why could it not abolish any other judgeship and thus render the entire judiciary wholly subservient to its will (because holding office at its pleasure,) contrary to the constitutional design that the judiciary should be wholly independent of legislative control? In reply to the argument that it was not proposed to remove the judges from office, but to abolish the office—a very different thing, he said, in substance: You admit that it would e unconstitutional to remove a judge from office; now what is the essential difference between removing the man from the office, and removing the office from the man? The two things are in substance and effect the same, differing only in the form of words employed. The result of this bill will be merely to put these judges out of office and transfer their duties to other judges, and the form of expression in which you state it cannot alter the nature of the act.

Other Federalist members of the Senate argued to the same effect, but these arguments did not succeed in preventing the passage of the repealing bill. It went through both houses and was approved by the President.

In the next session Mr. Ross presented a memorial of certain of the judges affected by the repealing act, asserting their right to hold office during good behavior, and asking Congress to review the laws relating to the judiciary and assign them duties as members of the judicial department, but offering to submit the right claimed by them to judicial examination and decision as Congress might in its wisdom prescribe. The memorial was referred to a committee of which Mr. Ross was one. The committee reported a resolution directing the At-

torney General to institute legal proceedings, in the nature of a writ of quo warranto, to test the right, claimed by the petitioners, still to hold their offices; but after debate this resolution was negatived by a vote of 13 to 15.

The excise laws, which had produced the Whiskey Insurrection, became a topic of debate in the first session of the seventh Congress. Jefferson in his annual message had suggested that the time had come when the internal taxes could safely be dispensed with, and the remaining sources of revenue relied on to provide for the support of government and the discharge of the public debt; adding, however, that these views as to reducing taxation were formed upon the expectation that a sensible and salutary reduction of expenditures would take place, and for this purpose the civil government, the army and the navy would need revisal. A bill to repeal the internal taxes was brought in in pursuance of this suggestion. In support of the proposal to repeal them it was contended that there had been sufficient reductions of expense provided for to remove the necessity for continuing these taxes. Mr. Ross spoke in opposition to the repeal. He questioned the accuracy and reliability of the estimates of revenues from other sources, and of reductions in expense, upon which was based the assertion that the internal taxes were no longer needed; but his principal argument was that the repeal would be a violation of the plighted faith of the United States. He called attention to the fact that the internal taxes had been solemnly pledged for the payment of the interest and principal of foreign loans, with a promise that they should not be diverted without the substitution of other funds of equal value. "He called upon gentlemen to justify, if they could, this flagrant breach of public faith, which was contained in the abolishing of these taxes without any substitute and on pretence of having made savings of public expense, which he declared

would amount to little more than savings on paper." (Annals of Congress, 7 Cong. 1 sess. p. 210.) He asserted that the repeal of these taxes, without substituting anything in their place, would be a blow to the national credit, as it was a violation of national faith. Mr. Nicholas, of Virginia, having suggested that since the pledge referred to by Mr. Ross, we had greatly increased our imposts and pledged them for the public debt, and this should equitably justify a release of the internal taxes, Mr. Ross replied that the pledge of imposts mentioned by Mr. Nicholas was simply a pledge by the act of 1798 of *surplus* revenue, whereas by the acts of 1791, 1794 and 1795 the entire internal taxes had been specifically pledged. Notwithstanding these arguments the bill passed.

In January, 1803, there was an argument in the Senate upon an episode connected with the well known case of Marbury v. Madison, 1 Cranch 137, celebrated as the first case in which there was an authoritative announcement by the Supreme Court of the United States that it had the right to declare void an act of congress found to be in violation of the constitution. President Adams had appointed certain persons, among whom was William Marbury, to be justices of the peace in the District of Columbia. The Senate had confirmed the appointments, and the commissions had been made out, signed and sealed, but they had not been delivered to the appointees at the time when Adams went out of office. Jefferson, acting on the idea that the appointments were not complete until the actual delivery of the commissions, countermanded their issue. Marbury, claiming that his appointment was complete, and that he was entitled to have his commission delivered to him, instituted proceedings in the Supreme Court for a mandamus to compel the Secretary of State, James Madison, to deliver the commission. The Senate was asked to pass a resolution permitting its secretary to give a certified copy of the record of its action confirming the

appointment, in order that this might be used as evidence in the mandamus proceeding. Mr. Howard, of Maryland, who had presented the petition for this to the Senate, remarked, when the resolution came up for consideration, that he would not trouble the Senate with any observations upon the question, as the request was so reasonable that he concluded it would pass without objection. Much to his surprise, however, it not only precipitated an extended debate, but failed altogether of passage. He had overlooked the fact that the resolution had a bearing upon the politics of the day. The party associates of Jefferson were not willing to permit the passage of this or any other resolution that would facilitate a proceeding in the court presided over by John Marshall, the object of which was to question an administrative act of President Jefferson. The resolution was opposed and argued against by a number of administration Senators. It was denounced as an attack upon the Executive, and an attempt to aid the judiciary to effect an invasion of the Executive's rights. "It is," said Mr. Wright, "well known why this certificate is requested. It is to aid an audacious attempt to pry into executive secrets, by a tribunal which has no authority to do any such thing; and to enable the Supreme Court to assume an unheard of and unbounded power, if not despotism. It is to enable the judiciary to exercise an authority over the President, which he can never consent to. It is well known that the persons applying are enemies to the President, and that the court are not friendly to him, and, under these circumstances, to interfere in the business would be making the Senate a party." The resolution was supported by several Federalist Senators, among whom was Ross. He contended that as there was nothing confidential about the action of the Senate in confirming the nominations in question, and no injunction of secrecy had been imposed in relation thereto, there was no reason for withholding a copy of the record

of the action taken, when it was represented that this would be material evidence in a cause pending in a high court of justice; that the giving leave to take such a copy would not commit the Senate upon the merits of the cause, or even upon the question whether the copy would be legally admissible in evidence—on the contrary, there would be infinitely more force in the allegation that by refusing the copy the Senate would be undertaking to prejudge the case; that this being a public record, any person interested had a right to demand a copy; that an arbitrary refusal would not extinguish the petitioner's right, nor would it defeat the suitor, as the court would either admit inferior evidence to establish the fact or issue process to obtain what it conceived to be legally attainable, and the Senate would be in the awkward situation of having interfered to stop a proceeding without having the power to accomplish the object. In reply to an argument, made on the other side, that the President's commission was the sole and exclusive evidence of the right to office, Mr. Ross said that he thought it his duty to enter his protest against this new and highly dangerous doctrine; that there was an end of all free and regular government if the President's commission was conclusive evidence of a right to office, or his proclamation of a treaty was conclusive evidence that it had become the supreme law of the land, notwithstanding it might be found, on investigation of the Senate's journals, that the appointment or the treaty had never been constitutionally consented to by that body; that while the commission and the proclamation were good prima facie evidence, the truth of the case must be subject to inquiry by the courts; that if the extraordinary doctrine that had been advanced were to be realized in practice, the transcendent powers of the President would soon leave little, if any, authority or security to the other departments of the government.

The resolution was negatived by a vote of 13 to 15.

In the instances above given of the participation of Senator Ross in the debates of the seventh congress, the division among the members was on party lines, and the earnestness with which the questions were debated, on the one side and on the other, was largely due to partisan feeling. But, partisan though the debates were in their inspiration, it will be noticed that the arguments made by Mr. Ross in these several instances were upon an elevated plane: he stood up for respect to the constitution, for the sacredness of plighted faith, and against arbitrary power.

The speech that gave Mr. Ross his greatest fame was delivered upon the question of the navigation of the Mississippi river. Before taking up this speech, it may be well to consider the history of the events leading up to the settlement of that question by the Louisiana purchase.

In 1817 James Monroe, then President of the United States, made a tour in the course of which he visited Pittsburgh. A reception was there given in his honor, and in connection with it a public meeting was held, presided over by Mr. Ross, at that time president of the select council of Pittsburgh. In the address of welcome with which he opened the meeting Ross referred to the fact that the distinguished visitor was not only the chief executive of the United States, but also one of the persons who as ministers negotiated the Louisiana purchase and thus secured the free navigation of the Mississippi. In response to this part of the address President Monroe said:

"The gentleman to whom this country owes a great debt of gratitude for the purchase of Louisiana is now president of this meeting. We always differed in politics. He is a Federalist. I am a Democrat. It was he who first called to the attention of President Jefferson the necessity of demanding the free navigation of the Mississippi river. It was Senator Ross who made Pittsburgh the 'Gateway of the West.'"

To what did Monroe refer by his statement that it was Ross who first called Jefferson's attention to the necessity of demanding the free navigation of the river? Clearly he could not have meant that Jefferson was not familiar with the importance to the country of the navigation of the river until Ross brought it to his attention, for the importance of the Mississippi as an outlet for the commerce of this country had been a prominent topic of public discussion from an early day. In the treaty of peace which closed the Revolutionary War our commissioners, principally with a view to its utilization for purposes of navigation, insisted on, and obtained, the recognition of the Mississippi as our western boundary. And before that peace it had figured in negotiations with Spain for an alliance, the claim, asserted by us and disputed by Spain, that as a people living along the upper waters we had a natural right to sail through Spain's territory to reach the river's mouth, being one of the matters necessary to be adjusted before such an alliance could be formed. Again, in 1787, when negotiations for a commercial treaty with Spain were on foot, the subject was discussed in Congress, Spain demanding, as a condition of such a treaty, that the United States relinquish all claim to the navigation of the river through her territory; and a proposal, by way of compromise, that such claim be relinquished for twenty-five years was finally consented to by the Spanish minister, but the project fell through because enough votes could not be had in Congress to ratify a treaty containing such a provision. Jefferson's own State, Virginia, whose boundary at that time was on the Mississippi, was vitally interested in the question, and it was much discussed among Virginians. Jefferson was familiar with the subject, and on January 30, 1787, he wrote to Madison, in reference to the proposition, then made, that the right of navigation be relinquished for twenty-five years: "The act which abandons it is an act of separation between the

eastern and the western country." All this was long before James Ross entered public life as a Senator. In view of the facts just stated the question recurs, what did Monroe mean by the statement quoted above from his Pittsburgh speech? Possibly the clue to his meaning is to be found in the citations previously made from Jefferson's writings. As we have seen, Jefferson in the year 1800, by means of Judge Brackenridge's report to him of a conversation with Ross, became possessed of Ross's idea that the transfer of the sovereignty of Louisiana to France from Spain would alter the situation of the United States, by giving France interests antagonistic to ours, and would render it advisable to cultivate the friendship of Great Britain in view of France's rank as a strong power; and we find Jefferson, after his accession to the presidency, writing to Livingston an expanded statement of the very same views that had been expressed by Ross. Is it not likely, then, that what Monroe meant to assert was, that it was from Ross that Jefferson derived the idea that it was important to act, with a view to securing the navigation of the river, before France would take possession of Louisiana, or at least before any change in our relations with France should throw any fresh obstacles in our way; and that it was due to Ross, or to agitation set on foot by him, that Jefferson was led to initiate, just at the opportune time, the course of action which resulted in the Louisiana purchase? (As we shall see, Ross himself favored another method of procedure than that followed by Jefferson.)

In 1795 a treaty had been concluded with Spain by which that country agreed that the navigation of the Mississippi, in its whole breadth and from its source to the gulf, should be free to the citizens of both countries; that citizens of the United States should be permitted for the space of three years from the date of the treaty to deposit their merchandise and effects in the port of New Orleans,

and to export them from thence without paying any other duty than a fair price for the hire of the stores; that either this permission should be continued, if found not to be prejudicial to the interests of Spain, or, if not so continued, they should be allowed to have upon another part of the banks of the Mississippi an equivalent establishment. By the treaty of 1800 Spain ceded Louisiana to France, but possession was not delivered in pursuance of this treaty until 1804. The Spanish authorities, still in possession, suspended in 1802 the right of deposit at New Orleans, which had been continued under the treaty of 1795 until that time, but refused to assign any other place upon the banks of the Mississippi for such deposit, in compliance with the stipulation of the treaty providing for this in the event of a withdrawal of this right as to New Orleans. On January 11, 1803, Jefferson sent to the Senate a special message nominating James Monroe as minister extraordinary and plenipotentiary, to be joined with Robert R. Livingston as minister plenipotentiary, "with full power to both jointly, or to either on the death of the other, to enter into a treaty or convention with the First Consul of France for the purpose of enlarging and more effectually securing our rights and interests in the river Mississippi and in the territories eastward thereof." As the territory was still in Spanish possession, he also nominated Mr. Monroe as minister extraordinary to that power, to be joined with Charles Pinckney, the minister to that country, for the purpose of treating with the King of Spain on the same subject.

A month later, on February 14, 1803, Mr. Ross addressed the Senate. Referring to what he characterized as "the unjustifiable, oppressive conduct of the officers of the Spanish government at New Orleans," in suspending the right of deposit, and to the fact that the President had sent an envoy extraordinary to Europe to endeavor to obtain relief from the situation, he stated that he was

convinced that more than negotiation was necessary—that more power and more means ought to be given to the President, in order to render his negotiation efficacious, and that he desired to offer certain resolutions upon the subject, but before doing so would explain his reasons for presenting and pressing them. Declaring that "to the free navigation of that river we had an undoubted right from nature, and from the position of our western country," and this right, and the right of deposit in the island of New Orleans, had been solemnly acknowledged and fixed by the treaty of 1795, which treaty had been wrongfully and insultingly violated, he proceeded to show the vital importance of the navigation of the river to the western portion of the United States, and the concern of the country as a whole in the matter. He asserted that, as experience had shown, the security of paper contracts or treaties was too feeble and precarious to insure us the right of navigation, and it was his firm and mature opinion that this right would never be secured while the mouth of the Mississippi was exclusively in the hands of the Spaniards: from the very position of our country, from its geographical shape, from motives of complete independence, the command of the navigation of the river ought to be in our hands. He therefore contended that as hostilities had been offered to us by the wrongful act of the Spanish authorities, we should, instead of awaiting the results of a tardy negotiation, seize the rights of which we had been deprived, plant ourselves upon the river, fortify its banks, and invite those who had an interest at stake to defend it; that when in possession we should be able to negotiate with more advantage. He warned the Senate against trifling with the feelings, the hopes and the fears of those who inhabited the western waters, and of the danger that they, should nothing be done for their immediate relief, might take the matter into their own hands and act on their own initiative. A reference made by him to the probable outcome

of the pending negotiations with France led to an objection that he was trenching upon points of a confidential nature, and a demand that the galleries be cleared. Mr. Ross said he would not proceed with closed doors. The Vice-President ruled that the doors must be closed at the demand of any Senator, after which the Senate would determine by vote whether or not the business should proceed with open doors. Accordingly the galleries were cleared. The Senate having decided that the discussion should be public, Mr. Ross two days later proceeded with his speech. He to some extent repeated and amplified the points he had already made, and concluded by moving the adoption of the following resolutions:

"*Resolved,* That the United States have an indisputable right to the free navigation of the river Mississippi, and to a convenient place of deposit for their produce and merchandise in the island of New Orleans.

"That the late infraction of such their unquestionable right is an aggression hostile to their honor and interest.

"That it does not consist with the dignity or safety of this Union to hold a right so important by a tenure so uncertain.

"That it materially concerns such of the American citizens as dwell on the western waters, and is essential to the union, strength and prosperity of these States, that they obtain complete security for the full and peaceable enjoyment of such their absolute right.

"That the President be authorized to take immediate possession of such place or places, in the said island or the adjacent territories, as he may deem fit and convenient for the purpose aforesaid; and to adopt such other measures for obtaining that complete security as to him in his wisdom shall seem meet.

"That he be authorized to call into actual service any number of the militia of the States of South Carolina, Georgia, Ohio, Kentucky, Tennessee, or of the Mississippi

Territory, which he may think proper, not exceeding fifty thousand, and to employ them, together with the military and naval forces of the Union, for effecting the objects above mentioned.

"That the sum of five million dollars be appropriated to the carrying into effect the foregoing resolutions, and that the whole or any part of that sum be paid or applied, on warrants drawn in pursuance of such directions as the President may, from time to time, think proper to give to the Secretary of the Treasury."

The resolutions were taken up for consideration on February 23rd, and were debated for three days. In the course of the debate Mr. Ross made another extended and able speech in support of the resolutions. In response to an objection that these resolutions meant war, and that negotiations should be tried, and exhausted, before resorting to war for redress of grievances, he said that he would agree to an amendment eliminating any *direction* to the President and giving him a bare discretionary power. In this speech is a remarkable passage exhibiting a broad, statesmanlike view of the value of Louisiana that was later to win the acceptance of the nation:

"We are not deliberating," said he, "about the right of deposit in New Orleans merely, nor about the island of New Orleans; we are told that we are to look for new and powerful neighbors in Louisiana. What right has Spain to give us these neighbors without consulting us? To change our present security into hazard and uncertainty? I do not believe that Spain has a right to do so.

"What are the limits of Louisiana? It extends three thousand miles upon your frontier. New Orleans is ceded with it. Then the province of Louisiana and New Orleans lie between the Floridas, and the other Spanish dominions on this continent. It is not difficult to determine who will command and own the Floridas. They must belong to the master of Louisiana and New Orleans. Then the owners possess the lock and key of the whole western coun-

try. There is no entrance or egress but by their leave. They have not only three thousand miles on your frontier in the interior country, but they have the command of your outlet to the ocean, and seven hundred miles of sea coast embracing the finest harbors in North America. This makes them, in fact, masters of the western world. What will you give them for this enviable dominion? . . . . What would this Senate take for the surrender of such an establishment were it ours?''

The result of the vote taken at the conclusion of the debate was that a substitute, offered by Mr. Breckinridge of Kentucky, was adopted in the place of the resolutions of Mr. Ross. This substitute, omitting all declarations as to the rights of the United States respecting the Mississippi, merely provided that the President be authorized, whenever he should judge it expedient, to call out 80,000 effective militia, permitting State executives to furnish, as a part of this detachment, corps of volunteers; that an appropriation be made for the pay and subsistence of such troops, and for defraying such other expenses as during the recess of Congress the President might deem necessary for the securing of the territory of the United States; and another appropriation for erecting at such place or places on the western waters as the President might judge most proper, one or more arsenals.

In the course of the debate Mr. Ross had expressed his doubts as to whether much could be hoped for from the French negotiations. Entertaining the view as to the value of New Orleans and Louisiana that is expressed in the quotation given above from his last speech, he did not think France would be willing to part with any portion of what he characterized as ''the lock and key of the whole western country.'' Had he been aware of the motives operating upon the mind of the First Consul; had he known that Bonaparte was anticipating the outbreak of another war with England, and fearing that in

the course of that war England would wrest Louisiana from him, Ross would have thought very differently of the prospects of negotiation. The event proved that peaceable negotiation was the better way. But the negotiation was originally directed toward the acquisition only of New Orleans and the territory east of the river; and the ambassadors with noble courage exceeded their instructions when they signed the treaty for the acquisition of the entire imperial domain of Louisiana. Can it be doubted (whatever view we may entertain of the wisdom or propriety of the specific proposals embodied in James Ross's resolutions) that the debate which these resolutions brought about, and the views respecting the value of Louisiana which he expressed in that debate, assisted in preparing the minds of the people for the ready acceptance of that treaty and in paving the way for its ratification by the Senate?

The Louisiana purchase was one of the most momentous episodes in our national history. It was the first step in the march of expansion which has carried us from the Mississippi to the Pacific ocean. Without it, the growth of the United States into a world power such as it now is would doubtless have been impossible. For the service which, as Monroe tells us, he rendered in directing Jefferson's attention to the necessity of taking the action which led to this purchase, and for his work in preparing the way for the final acceptance and success of the treaty, we may well echo Monroe's words, in saying that to James Ross "this country owes a great debt of gratitude."

On March 3, 1803, Ross attended the Senate for the last time. The next day he became, by the expiration of his term, a private citizen.

While serving as a Senator he had twice been the candidate of the Federalists for the governorship of Pennsylvania—in 1799 and in 1802, being defeated each time by

Thomas McKean, the candidate of what afterwards became known as the Democratic party. Five years after his retirement from the Senate he became the standard bearer of his party in the gubernatorial election of 1808, his opponent being Simon Snyder. His defeat was inevitable. The Federalists were a waning party, fighting in vain against the Democratic reaction of which Thomas Jefferson was the leader and exponent, and no candidate representing them could hope for success in that election. The campaigns against Ross, however, were conducted largely along the line of personalities, rather than that of a discussion of party principles. He was attacked, abused, and vilified. His public acts were ascribed to reprehensible motives, and he was held up as a man of such principles as to make it improper to entrust him with power. Remembering certain political campaigns of slander that have occurred in our own day, we can understand how much reliance to place upon personal attacks against a candidate a century ago as evidence of his true character.

As previously mentioned, his vote against permitting religious tests, in the constitutional convention of 1790, was adduced as evidence of atheism and hostility to religion, and it was argued that it was unsafe to place in the hands of a man of such tendencies the extensive appointing power which the governors then wielded. The absurd charge was made that in his enmity to religion he had sought to cast ridicule upon its ordinances by administering the sacrament to his dogs. Under date of August 29, 1808, the Rev. John McMillan signed a statement which was published by the supporters of Ross in reply to this charge:

"This is to certify that I have been intimately acquainted with James Ross, esq., of Pittsburgh, for more than thirty years; that I never heard him speak, or heard of him speaking disrespectfully of religion or religious persons; that the stories which are propagated respecting him, as being a deist, and prostituting the ordinances of the Gos-

pel, I believe to be wholly unfounded. I short, I know nothing, nor have I ever heard anything against his moral character that could in the smallest degree disqualify him for the office of governor, or ought to be objected against him as a candidate for that office, and I am determined to give him all the support in my power, and hope that all the friends of religion and good order will do the same.

"JOHN McMILLAN."

"Wash. County, Aug. 29, 1808."

The result of this publication was to bring out attacks upon Dr. McMillan himself in the newspapers opposed to Ross. The command of the decalogue, "Thou shalt not bear false witness," was suggested to the Doctor as a proper subject for serious study, and it was sought to discredit him, as a voucher for the character of Ross, by publishing a part of the record of the slander suit brought against him by Mr. Birch, to show that he had been a defamer of the latter.

During the campaign there were published at intervals in the "Aurora," of Philadelphia, the leading Jeffersonian newspaper, over the signature of Jane Marie, a number of communications charging Mr. Ross with gross oppression and mistreatment of Mrs. Marie in connection with the former's acquisition of his property on Grant's Hill in Pittsburgh, a part of which is now occupied by the Allegheny County court house. This property was purchased by Ross in 1803 from a Frenchman, John Marie, the husband of the signer of these communications. In these publications she informed the public that in 1803, and for ten years previous thereto, she had lived with her husband on the Grant's Hill property, which by the taste of her husband and by her own industry had been converted into a "little paradise;" that her husband had entered into an engagement with her, which was entered upon the public records of the county, never to sell the property on Grant's Hill; that on January 3, 1803, Mr.

Marie left Pittsburgh in company with Mr. Ross, and afterwards proceeded to France; that about the end of March, 1803, on his return to Pittsburgh after attendance in the Senate, Mr. Ross came to her home and informed her that he had bought the property from her husband, to which she replied that Mr. Marie had obtained her signature to deeds for other property by engaging never to part with this one, and she would not permit Ross to have it; that two or three days later she received a letter from Ross, dated April 1st, of which she gave a copy, the substance of which was that he hoped on better advice and consideration she would see the propriety of giving him possession, and that he could not consent to cancel his purchase nor was this desired by Mr. Marie, and her continued refusal to deliver possession would be attended with serious misfortunes to herself, closing by assuring her of his readiness to do anything which any counsel she might engage should say was justly and honorably expected from him; that the "menaces" of Mr. Ross, contained in this letter, were carried into cruel perpetration; she was on August 3, 1803, expelled from her home in an indecent and barbarous manner—the door was broken open with an axe, she was torn from her bed chamber by the hair of the head, "seized by the legs by a vile ruffian of the name of Griffin" and "dragged, senseless and naked into the public street, where (she) lay, an object of horror to the passengers, who dared not, at the risque of life, to interfere or rescue" her. All this, she charged, was done by the orders and direction of James Ross. She further alleged that about five or six months later, as she and her child were walking one evening past her former residence, then in the occupancy of Ross, the latter sprang forth, an enormous whip of cowhide in his hand, and with horrid imprecations fell upon and attacked her and the child, beating both of them, and, after breaking upon her the lash of the whip, clubbed it and beat her with the butt into insensibility, inflicting wounds

the marks of which she bore upon her for a long time. She complained, further, that Mr. Ross had the courts, magistrates and lawyers all terrorized, so that she was utterly unable to obtain any redress against him.

If all these allegations were to be accepted as true, they would cast a great stain upon the character and reputation of James Ross. It is patent to the reader, however, that Mrs. Marie's statements need to be very considerably discounted. Evidently and manifestly, this woman did not write these newspaper communications herself; it is plain that they must have been prepared by a political writer, and the purpose of their publication was avowedly to influence the voters in a political campaign. These circumstances, in connection with the general style and manner of the writing, and especially certain insinuations which are made against Mrs. Marie's own lawyers, the principal one of whom was Henry Baldwin, afterwards Mr. Justice Baldwin of the Supreme Court of the United States, stamp her statements as not to be accepted without great allowance.

Mrs. Marie's charges fall into two distinct divisions, one relating to her expulsion from the Grant's Hill property, and the other to the horsewhipping, some six months later.

In reply to the first branch of her allegations there were published statements made by several persons. One of these was signed by John Marie. In it he said that after offering the property to other persons, who were not willing to give the price he asked for it, he finally offered it to Ross (without telling the latter that he intended to leave his family and go to France) and Ross, who had never solicited the purchase, agreeing to Marie's terms, a contract of sale was entered into; that Marie then went to France, and forwarded thence a letter of attorney to Thomas Collins, Steel Semple, John B. C. Lucas and John Johnston, authorizing and requiring them to carry his contract into effect, to receive the purchase money owing upon it and to

invest the same for the support of his family. Joseph Barker and George Stevenson certified that before making the sale to Ross, Marie had offered the property to them, but they declined the purchase, thinking the price too great. Another of the statements published was made by John Wilkins, Jr., of Pittsburgh, who said among other things that Mr. Ross had nothing to do with the transaction of putting Mrs. Marie out of the property, which was managed by the attorneys of Mr. Marie, and that in Pittsburgh, where the circumstances were well known, her story would not operate in the smallest degree to the prejudice of Mr. Ross.

Let us now see what light the records of Allegheny throw upon the history of this affair.

John Marie was the owner of outlot No. 6 in the manor of Pittsburgh, containing six acres and fifty-three perches, which was conveyed to him by the proprietaries on May 24, 1786. This embraced substantially the whole of the blocks in the present city of Pittsburgh lying between Fourth and Fifth avenue and Grant and Ross streets. On February 13, 1797, he signed and acknowledged the agreement with Mrs. Marie to which she refers. It is recorded in Deed Book 6 at page 448. By it, in consideration of Mrs. Marie's signing a deed for the conveyance to George Stevenson of certain other property, Marie covenanted and agreed with his wife that he would not at any time "grant, bargain or sell, lease or convey to any person whatsoever, for any consideration whatsoever," outlot No. 6 or any part thereof, without his wife's full consent and approbation. By this agreement he did not give, or undertake to give, to Mrs. Marie any interest in this property; he merely covenanted and promised that he would not sell it to any one else without her consent.

On January 14, 1803, an agreement was signed by and between John Marie and James Ross, which is of record

in Deed Book No. 12 at page 62. By this instrument Marie granted, bargained, sold, etc., to Ross, his heirs and assigns, outlet No. 6, and covenanted to deliver possession thereof on the first day of April next ensuing, and also on or before said day to make a good and sufficient deed of conveyance, clear of all encumbrances; further to deliver to Ross's order certain garden implements, and a certain cow, and to leave all grates that were in the house. In consideration of this, Ross bound himself to pay $2,000 in hand and to give two bonds for $800 each, bearing interest from April 1st, one to be payable September 1, 1803, and the other March 1, 1804. It was further stipulated that if an order given by Ross to Marie for the $2,000 should not be accepted and paid by the drawees, Thomas McEuen & Co., the whole bargain should become void and be canceled. Appended to the instrument is a receipt, signed by Marie, for a bill on Thomas McEuen & Co., for $2,000 on ten days' sight, and two bonds for $800 each.

By this agreement Ross became legally entitled to possession on April 1st, 1803. Mrs. Marie not being a party to it, he would take subject to her right to claim dower, should she survive her husband; but. as the legal owner of the property, Mr. Marie had the power to sell it and deliver possession subject to the dower rights of his wife. Nor would the agreement of 1797 between Marie and his wife interfere with the exercise of such a power: it may be doubted whether, in the then state of the law of married women, the agreement was legally worth anything at all; in any event it would seem not to be specifically enforceable as a restriction of Mr. Marie's dominion over his own property, because it did not purport or undertake to give Mrs. Marie any interest therein, and the prospective dower interest which she already had by law would not be interfered with by any sale her husband might make without her joinder. If, however, we lay out of view the question of its legal enforcibility, and look only at the ethics

of the transaction by which this sale was made in disregard of Marie's promise not to sell without his wife's consent, two remarks concerning this are to be made: first, that there is nothing to show that Ross, at the time when he entered into the contract, was aware that this promise had been given; and second, that the divorce record to be mentioned hereafter indicates that Mrs. Marie was chargeable with such a failure to conform to her duties as a wife as would absolve Mr. Marie from his promise.

At No. 167 June Term, 1803, in the Court of Common Pleas of Allegheny County, Ross instituted an action of ejectment to obtain possession of the lot in pursuance of his purchase. At this time the old practice in ejectment by which this action was based upon a supposed fictitious lease, and fictitious parties were named as plaintiff and defendant, was still in vogue, and in accordance with it the case was entitled "Richard Fen, lessee of James Ross, vs. John Den, with notice to John Marie, tenant in possession." On August 4, 1803, Steel Semple, Esq., appeared as attorney for John Marie, and confessed judgment against him for the premises described in the declaration. Thereupon a writ of habere facias, commanding the sheriff to deliver possession to the plaintiff, was issued. On November 15, 1803, Mr. Baldwin appeared for Mrs. Marie and obtained a rule to show cause why the judgment should not be opened to permit her to make a defense. The same day, on hearing, this rule was discharged.

On November 15, 1806, to No. 90, November term, 1806, John Marie sued for a divorce from Jane Marie. In this proceeding Mr. Marie was represented by Mr. Mountain, and the attorney of Mrs. Marie was Mr. Wilkins. The case resulted in a decree, entered by the court on August 14, 1807, "that the said John Marie be divorced from the bonds of matrimony contracted with the said Jane Marie, and that their marriage henceforth be null and void." Pending this suit, Mrs. Marie had presented a pe-

tition for alimony, which was docketed to No. 36 April term, 1807. After several continuances, this petition was disposed of by the laconic entry, "Dismissed."

Having obtained a divorce, and thus being able by his own deed to convey a complete title, Mr. Marie executed a conveyance dated August 28, 1807, two weeks after the decree granting the divorce, by which he transferred to Mr. Ross the legal title to outlet No. 6, "in order to complete and carry into effect" the agreement of January 14, 1803.

From all this it is evident that domestic infelicities which had developed in the married life of John and Jane Marie were at the bottom of the whole affair. It was his marital troubles, apparently, that led Mr. Marie in January, 1803, to sell his property and depart for France. To some extent the husband and wife may be regarded as fighting each other over Mr. Ross's shoulders.

Mrs. Marie says that her expulsion from the possession of the property took place on August 3rd. The record of the ejectment suit shows that the writ of habere facias, the purpose of which was to effect a transfer of the possession, was issued on August 4th. The thought naturally occurs, whether there can be any error or confusion of dates here, as one would suppose that what would be most likely and natural to happen would be that the dispossession of Mrs. Marie would take place under and in pursuance of the writ of habere facias, and that whatever force was made use of would be brought on by her making forcible resistance to the execution of the writ. If, however, we accept the statement that Mrs. Marie was expelled on the third, and consider this in connection with the statement of Mr. Wilkins that the obtaining possession from her was managed by Mr. Marie's attorneys and not by Mr. Ross, then it would seem that the transaction of the third was the taking of possession by agents of her husband, and Mr. Ross obtained his possession on the fourth, in a lawful manner, by means of legal process. But Mrs. Marie's harrowing

tale of cruelty and barbarity is drawn in such high colors, and is so evidently grossly exaggerated, that one cannot give it credence, no matter who is to be regarded as responsible for her expulsion. No doubt there was a scuffle, and no doubt in resisting the setting of herself and her belongings out of the house she made such a struggle that some injury to herself would inevitably occur, but the account published in her name has colored the facts with a view to creating the desired impression upon the minds of the voters. Thus the statement that she was dragged naked and senseless into the public street, is no doubt merely a poetic expression of the fact that in the scuffle incident to ejecting her some of her clothing was torn, and the further fact that her ejection was not accomplished until her powers were all expended and she was by complete exhaustion incapable of further resistance.

A similar view may be taken of the second division of her charges, relating to the horsewhipping which she alleges was inflicted upon herself and her child by Mr. Ross some months later. Her story as to that does not, to my mind, bear upon its face the aspect of truth, and I cannot believe it. It may be true that there occurred at that time some sort of a scuffle between herself and Mr. Ross, but if so I believe she began the fight herself.

The reasonable conclusion seems to be that whatever was actually done by Mr. Ross in the matter of the Grant's Hill property, was but the assertion and enforcement in a lawful manner of his legal rights. Whether or not, aside from the question of legal right, and viewing the matter solely from the standpoint of what a chivalrous gentleman ought to and would do in the circumstances, he merited any blame for lack of forbearance and regard for the situation in which Mrs. Marie was placed, after he had learned of the engagement her husband had given her not to part with this property, it is of course difficult, by reason

of our very imperfect knowledge of the facts, to say, though in this connection we must not forget his offer, in the letter he wrote her on April 1, 1803, to do whatever her counsel might say should be justly and honorably expected of him, which would indicate that he desired to treat her fairly and considerately. And moreover any other disposition would not be in accord with the character which persons who knew him intimately attributed to him.

To show what kind of a man James Ross really was, I may here mention a fact for the knowledge of which I am indebted to our worthy President. Mr. Crumrine informs me that some years ago he was told the following story by a gentleman of Pittsburgh. An ancestor of Mr. Crumrine's informant, holding a tract of land in Allegheny county under a conveyance made by James Ross, was sued in ejectment, the action being based upon an adverse title. The result of the case was that the title of the plaintiff in that action prevailed, and the title which Ross had conveyed proved to be bad. But the deed which Ross had made for the land in question did not contain a covenant of general warranty, and accordingly Ross was under no legal obligation whatever to make any compensation for this failure of the title. Nevertheless, when the litigation came to an end, and the title which he had conveyed was finally adjudged not good, he voluntarily, of his own motion, and without even a request or a suggestion that he ought to indemnify the man who had thus lost his land, went to the latter and handed him a deed for another tract of land, the value of which was fully equal to if not greater than that of the land which had been recovered in the ejectment suit. He did this because he felt that, as he had been paid in good faith for the land which had been swept away by an adverse title, it was the fair and honorable thing to make good the loss thus suffered, even though he were not legally bound to do so. One who will

do a thing like this, for reasons and with motives such as I have indicated, shows himself to be a man of high principles and a keen sense of honor.

Speaking of the character and manner of Ross's business dealings, the "History of Allegheny County," after referring to the fact that he had money to lend, and, desiring to lend it safely, was extremely careful about the security for his loans, (which tended to create the idea that he was of a mercenary disposition,) says of him:

"But he never oppressed any one, and always maintained his integrity as a man and a lawyer. . . . Altogether he was a man of great intellect, and a sound lawyer, who left a good reputation behind him."

In another place, this History says:

"It was the peculiarity of Mr. Ross to be the friend of men in trouble, and when he had money to lend he was ready to help any one in whom he had confidence. And he was no Shylock. He never exacted a heavy rate of interest. When money was worth 20 to 30 per cent, he stuck to the legal rate of 6 per cent. He never demanded more, and would accept of nothing less. And he always got his money back, or its equivalent in land. His kindness was shown, not in giving, but in helping, and he helped many a one, both then [referring to the financial crisis of 1817] and long afterward. Among others he helped [James] O'Hara and delivered him from the fear of the sheriff and from the agony which pecuniary pressure brings. Ross tided him over that terrible depression, and when O'Hara came to die he was able to make a careful division of his huge estate, free from the burden that would have broken him down had Ross not lifted its weight from him."

After the election of 1808, Mr. Ross did not appear as a candidate in either State or national politics, except that in 1816 he received five electoral votes, from Connecticut, for Vice-President. He interested himself, however, in

municipal affairs, and from 1816 to 1833 was president of the select council of the city of Pittsburgh. During all this period the select council was largely Democratic, and the fact that, notwithstanding this, he was thus kept at its head is a striking evidence of the esteem which he held in the community: it was because he enjoyed the public confidence, and his participation in managing the city's affairs was regarded as for its best interests, and not because of political influence.

He practiced his profession, and, engaging to some extent in land speculations, he became by the appreciation of real estate values possessed of considerable wealth.

In 1834, for the consideration of $20,000, he conveyed to the commissioners of Allegheny County the court-house square in Pittsburgh, bounded by Fifth Avenue, and Grant, Diamond and Ross streets, embracing a part of the Marie property. That portion of this property which extends from Diamond street to Fourth Avenue, between Grant and Ross streets, he retained until his death. He resided upon this for many years. In his will, which is dated October 5, 1841, he speaks of it as the "piece of ground . . . on which I lately resided." He was at that date residing upon a lot in Allegheny City, on Stockton avenue, east of Sandusky street, where he spent the remainder of his life. He owned a large body of land on the Allegheny river, containing between 2,000 and 3,000 acres, a part of which is now occupied by the town of Aspinwall. In the center of this tract he built, in the latter part of the second decade of the nineteenth century, a mansion which he used as a country residence. It is now the residence of Robert C. Hall, who owns, in connection with it, about five hundred acres of the Ross land.

His life covered an interesting period in the development of what is known in the business world as the "Pittsburgh district." The date at which he became a resident of Pittsburgh was less than a year after the original incor-

poration of that town as a borough by the act of April 22, 1794, and it then had a population of less than 1500. Indeed, the returns of the preceding census showed that the entire county of Allegheny, which at that time embraced the present counties of Armstrong, Beaver, Butler, Crawford, Erie, Lawrence, Mercer, Warren and Venango, had in 1790 but 10,390 inhabitants. He lived to see a population of about 50,000 in the two cities of Pittsburgh and Allegheny, and of about 130,000 within the limits of Allegheny County as these had been reduced by the organization, out of her territory, of the nine other counties above mentioned. In 1816 Pittsburgh had advanced sufficiently to receive a city charter, and as we have already seen, Mr. Ross became in that year president of the select council and continued, in that capacity, until 1833 to take a prominent part in the management of its municipal affairs. In this way, as well as by his connection, legal and financial, with various enterprises, he assisted materially in building up what has now developed into the great city of Pittsburgh.

He lived to be eighty-five years of age, and for a time preceding his death his mental faculties, as well as his bodily vigor, were much impaired. During this period he is reported to have destroyed many letters and documents which he had received from President Washington. Their disappearance is doubtless a serious historical loss. Death came to him on Saturday, November 27, 1847. On the following Monday the members of the bar of Allegheny County held a meeting to give expression to their respect for his memory. It was presided over by Robert C. Grier, of the Supreme Court of the United States. A series of resolutions, presented by Wilson McCandless, afterwards Judge of the United States District Court, were adopted, reading as follows:

"The senior of the Pennsylvania Bar is no more. James Ross, celebrated throughout the Union as a lawyer and a

statesman, departed this life on Saturday, at his residence in Allegheny City; and the bar of Pittsburgh, profoundly appreciating his great talents, and varied learning, have assembled on this occasion to do honor to his illustrious memory.

"With Addison and Semple, and Campbell, and Woods, and Foster, and Baldwin, he gave character and reputation to this bar. His deportment was that of a polished gentleman, and his forensic eloquence made an impression upon the minds and hearts of the people of Western Pennsylvania that will not soon be eradicated. His knowledge of the law is stamped upon the reports of cases argued and determined by the gigantic intellect of that early period, and the journals of the Senate of the United States bear witness to the greatness of his statesmanship.

Resolved, That the event we deplore, although in the course of nature expected, fills us with grief.

Resolved, That we will endeavor to imitate his virtues.

Resolved, That we will wear the badge of mourning, and attend his funeral in a body, tomorrow morning at 9 o'clock."

The funeral services were held at his late residence in Allegheny City, on Tuesday, November 30. They were attended by the judges, the bar and a large concourse of people. His body was interred in the Allegheny Cemetery at Pittsburgh.

Mr. Ross was married, on January 13, 1791, to Ann Woods, a daughter of George Woods, of Bedford, Pennsylvania, who was a colonel of the Pennsylvania troops during the war of the Revolution, and a prominent official of Bedford County under the first constitution of the State, and, as a surveyor, assisted by his son George, laid out the town of Pittsburgh in 1784. John Woods, another son of Col. Woods, was one of the earliest members of the Al-

legheny County bar. Mrs. Ross died at Cornwall, Pennsylvania, on September 11, 1805, in the thirty-fifth year of her age, having been born on January 13, 1771. James and Ann Ross had three children: James, Mary Jane and George W. Ross. The two sons died unmarried. The daughter, Mary Jane, born at Pittsburgh June 28, 1797, was married on October 7, 1816, to Edward Coleman of Lancaster and Philadelphia, who served in the assembly and also in the senate of Pennsylvania. She died at Lancaster on September 27, 1825, leaving three children—Anne Ross, Harriet, and Mary Jane. The only one of these who left descendants was Harriet, Mary Jane having died unmarried, and the children of Anne (who married George W. Aspinwall) having all died in youth. Harriet married Eugene A. Livingston, a grandson of Chancellor Robert R. Livingston. (Of the latter I have made mention in connection with his ministry to France and the negotiation of the Louisiana purchase.) She had two children, Eugene and Mary Coleman. Eugene died in 1861, at the age of seventeen years, of fever contracted while serving in the Union army.

Mary Coleman married Maturin L. Delafield, of New York City. They have issue as follows:

1. Maturin L. Delafield, Jr., born September 29, 1869, now residing at St. Moritz, Switzerland.

2. Joseph L. Delafield, born March 19, 1871, who is a lawyer in New York City.

3. John Ross Delafield, born May 8, 1874. He also is a practicing lawyer in the City of New York. He has one son, John White Ross Delafield, born May 12, 1905.

4. Julia L. Delafield, born October 14, 1875, now Mrs. Frederick William Longfellow. She has three children: Julia Delafield Longfellow, born April 28, 1902; Frederick Livingston Longfellow, born August 18, 1903, and Elizabeth Delafield Longfellow, born February 14, 1905.

5. Edward Coleman Delafield, born July 10, 1877, who is engaged in business in New York City. His children are Maturin L. Delafield, 3rd, born March 17, 1901; Margaretta Stockton Delafield, born November 3, 1904, and Edward Coleman Delafield, born February 14, 1906.

6. Mary Livington Delafield, born November 23, 1878.

7. Harriet Coleman Delafield, born May 7, 1880, now the wife of Jarvis Pomeroy Carter.

8. Eugene L. Delafield, born August 18, 1882, a graduate in mechanical engineering of the Stevens Institute of Technology.

The Delafield family, as will be seen, are the only living descendants of Senator Ross.

The name of James Ross is commemorated by Ross street in Pittsburgh and by Ross township in Allegheny County. Ross County, in Ohio, is also named for him. In view of the fact that his career commenced in Washington and that he attained eminence and became Senator while residing here, the town of Washington, or Washington County, ought to give his name to some street or municipal subdivision.

HISTORICAL SOCIETY OF YORK COUNTY.

Curator and Librarian,
George R. Prowell.

York, Pa., March 14, 1910.

HON. BOYD CRUMRINE,
Washington, Pa.

MY DEAR SIR—Your letter and the newspaper reached me on Saturday last. I read the article on Senator James Ross with great interest. It is by far the most complete sketch of him that has ever been written. The author made a diligent study of the life and character of that distinguished statesman before he prepared his paper. He deserves commendation for his splendid biography. I did not find an error in the paper, which is written in an excellent style.

When you publish the pamphlet, please send to the Historical Society of York County at least two copies. I would like to have more copies, and would be pleased to send you some of our pamphlets if your Society does not have them on file at present.

I expect to see you in Harrisburg in January. The session of the Federation was short, lasting only two hours.

I have a steel portrait of James Ross and his birth place, hanging on the wall of the large room in our new Court House, occupied by our Society. This property has recently passed out of the hands of the Ramseys, who are descendants of a sister of Senator James Ross.

Very truly,

GEO. R. PROWELL.